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STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES WASTE MANAGEMENT
WASTE MANAGEMENT DIVISION

In the matter of administrative proceedings
against Ford Motor Company a corporation
organized under the laws of the State of Delaware
and doing business at 50000 Grand River Expressway,
City of Wixom, County of Oakland, Michigan

EPA ID No. MID 005 379 714

NOTICE OF VIOLATION

You are hereby notified that the Staff of the Department of Natural Resources ("DNR") has sufficient information to believe that Ford Motor Company ("Ford") has violated the requirements of the Michigan Hazardous Waste Management Act 1979 PA 64, as amended, ("Act 64") MCL 299.501 et seq.; MSA 13.30 (1) et seq., and the rules promulgated thereunder.

Regulatory Background

1. Pursuant to its authority under Act 64, the DNR has promulgated administrative rules pertinent to the identification, generation, treatment, storage, disposal, and transportation of hazardous wastes in Michigan. The most recent version of these rules can be found in the Michigan Administrative Code R299.9101 - R299.11107.
2. The U.S. Environmental Protection Agency ("U.S. EPA") first published rules concerning the identification, generation, transportation, treatment, storage, or disposal of hazardous wastes on May 19, 1980.

These rules are codified at 40 CFR Parts 260 through 270. Notification to U.S. EPA of hazardous waste activity was required in most instances no later than August 18, 1980.

3. Section 3010(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6930(a), requires any person who generates or transports hazardous waste, or owns or operates a facility for the treatment, storage, or disposal of hazardous waste, to notify U.S. EPA of such activity within 90 days of the promulgation of rules under Section 3001 of RCRA. Section 3010 of RCRA also provides that no hazardous waste subject to the rules may be transported, treated, stored, or disposed of unless the required notification has been given.
4. On October 30, 1986, the State of Michigan was granted final authorization by the Administrator of the U.S. EPA, pursuant to Section 3006(b) of RCRA, 42 U.S.C. Section 6926(b), to administer a hazardous waste program in Michigan in lieu of the federal program, 40 CFR Part 271; 51 Federal Register 36804 (October 16, 1986), as updated by 54 Federal Register 7420 (February 21, 1989), by 54 Federal Register 48606 (November 24, 1989), and by 55 Federal Register 18112 (May 1, 1990). Section 3008 of RCRA, 42 U.S.C. Section 6928, provides that the U.S. EPA may enforce State rules in those States authorized to administer a hazardous waste program.

Factual Statement

5. Ford is a person as defined by Section 5(2) of Act 64, and R 299.9106(g). Ford owns and operates a facility at 50000 Grand River Expressway, Wixom, Michigan, that generates hazardous waste, (the "Wixom facility"). The Company is a Delaware corporation authorized to do business in Michigan.
6. On August 11, 1980, Ford filed a notification of hazardous waste activity for the Wixom facility with U.S. EPA pursuant to Section 3010 of RCRA. The Company's EPA I.D. No. is MID 005 379 714.
7. On October 27, 1989, the DNR conducted an inspection of the Wixom facility. During the inspection, DNR staff discovered numerous violations of Act 64 and the rules promulgated thereunder. The DNR notified Ford of the violations in letters dated November 2, 1989, January 4, 1990, January 19, 1990, February 12, 1990, and May 3, 1990. Ford responded to these notifications in letters dated December 11, 1989, February 1, 1990, February 2, 1990, March 2, 1990, April 24, 1990, September 17, 1990, and March 8, 1991. The violations remaining are stated below.
8. R 299.9306(1)(a) states in pertinent part:

"(1) Except as provided in subrules (4), (5), and (6) of this rule, a generator may accumulate hazardous waste on-site for 90 days or less without an operating license if he or she complies with all of the following requirements:

 - (a) The waste is placed in tanks and the generator complies with the provisions of 40 C.F.R. part 265, subpart J, except the provisions of §265.197(c), §265.200, and R 299.9615 except subrule (1)." 40 CFR part 265 is incorporated by reference in R 299.11003(1)(n).

9. 40 CFR §265.191(a) states:

"(a) For each existing tank system that does not have secondary containment meeting the requirements of §265.193, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in paragraph (c) of this section, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with §270.11(d), that attests to the tank system's integrity by January 12, 1988." The January 12, 1988 date was amended to be January 12, 1989 by R 299.9615(6)(b).

10. During the October 27, 1989 inspection, DNR staff documented that the waste purge solvent tank, the waste oil tank, the two miscellaneous flammable waste dump tanks, the waste gas tank, and the permeate tank had not received an initial assessment by January 12, 1989 in violation of R 299.9306(1)(a) and 40 CFR 40 CFR 265.191(a).
11. The waste gas tank was taken out of service on December 23, 1989. The waste permeate tank was taken out of service on February 3, 1990, and the waste purge solvent tank was taken out of service on an unspecified date, however, based on correspondence from Ford, it is believed to have taken place between April 24, 1990 and September 17, 1990. These tanks were operated until the respective date specified without receiving the assessment required in violation of R 299.9306(1)(a) and 40 CFR 265.191(a).
12. In the September 17, 1990 letter, Ford stated that the waste permeate tank had been returned to service. In the March 8, 1991 letter, Ford submitted the assessment for the waste permeate tank to the DNR. The assessment was dated November, 1990. Therefore, Ford returned the waste

permeate tank to service, and operated it between September 17, 1990 and November 1990 in violation of R 299.9306(1)(a) and 40 CFR 265.191(a).

13. Ford operated the waste oil tank, and the two miscellaneous flammable waste dump tanks until November, 1990 without having assessed and certified the integrity of these tanks in violation of R 299.9306(1)(a) and 40 CFR 265.191(a).

14. 40 CFR 265.194(b)(2) states:

"(b) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems. These include at a minimum:
(2) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank)."

15. Ford has not installed remote sensing devices in the waste oil tank and the two flammable waste dump tanks containment vaults to detect spills, nor has Ford been conducting inspections to detect spills into the vaults in violation of R 299.9306(1)(a) and 40 CFR 265.194(b)(2).

16. 40 CFR 265.195(a) states:

"(a) The owner or operator must inspect, where present, at least once each operating day:
(1) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;
(2) The above ground portions of the tank system, if any, to detect corrosion or releases of waste.
(3) Data gathered from monitoring equipment and leak-detection equipment, (e.g., pressure and temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and
(4) The construction materials and the area immediately surrounding the externally accessible portion of the tank system including containment structures (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation);"

17. Ford has not conducted daily inspections of the waste permeate tank, the waste oil tank, the two flammable waste dump tanks, secondary containment systems, equipment, data from monitoring equipment, and construction equipment in violation of R 299.9306(1)(a) and 40 CFR 265.195(a).

18. R 299.9615(2)(a) states:

"(2) Owners or operators of tanks not in compliance with the containment requirements of 40 C.F.R. §264.193(b) to (f) shall, at a minimum, do the following until either the tank system is brought into compliance with those standards as provided by 40 C.F.R. §264.193(a) or a variance is obtained as provided by 40 C.F.R. §264.193(h):

(a) Insure that aboveground tanks used for the treatment or storage of liquid hazardous wastes, or hazardous wastes which could generate free liquids during storage, are located in areas which are paved, diked, curbed, or otherwise structurally enclosed so as to be able to contain not less than 150% of the largest tank within the enclosed area. Where hazardous wastes stored are incompatible with the materials of construction of tanks within the enclosed area, or where tanks are interconnected such that a loss from one tank may lead to losses in others, the owner or operator shall insure that all tanks are structurally enclosed so as to be able to contain not less than 150% of the liquid portion of the material being stored in all tanks."

19. Ford has not submitted sufficient information regarding the coatings used on the secondary containment systems for the waste permeate tank, the waste oil tank, and the two miscellaneous flammable waste dump tanks, for the DNR to determine if the coatings are impermeable to the waste stored in those tanks in violation of R 299.9615(2)(a).

20. R 299.9304(1)(a) states:

"(1) A hazardous waste generator who transports, or offers for transportation, a hazardous waste for off-site treatment, storage, or disposal shall do all of the following:

(a) Prepare a manifest before transporting the waste off-site."

21. Based on a letters dated March 22, 1990, from PPG Industries Inc. to U.S. EPA, and April 25, 1990, from PPG Industries Inc. to the DNR, the DNR has determined that Ford failed to manifest 200 gallons of hazardous waste in violation of R 299.9304(1)(a). The letter to U.S. EPA was referred by the U.S. EPA to the DNR on April 4, 1990.

22. R 299.9304(1)(b) states:

"(1) A hazardous waste generator who transports, or offers for transportation, a hazardous waste for off-site treatment, storage, or disposal shall do all of the following:

(b) Designate on the manifest 1 facility which is licensed to handle the waste described on the manifest. A generator may also designate on the manifest 1 alternate facility which is licensed to handle his or her waste if an emergency prevents delivery of the waste to the primary designated facility."

23. Based on a letters dated March 22, 1990, from PPG Industries Inc. to U.S. EPA, and April 25, 1990, from PPG Industries Inc. to the DNR, the DNR has determined that Ford failed to have the waste transported to a facility licensed to handle the waste in violation of R 299.9304(1)(b). The letter to U.S. EPA was referred by the U.S. EPA to the DNR on April 4, 1990.

24. R 299.9305(1)(a),(b),(c), and (e) state:

"(1) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall do all of the following:

(a) Package the waste in accordance with the applicable DOT regulations on packaging under the provisions of 49 C.F.R. parts 173, 178, and 179.
(b) Label each package in accordance with the applicable DOT regulations on hazardous materials under the provisions of 49 C.F.R. part 172.
(c) Mark each package of hazardous waste in accordance with the applicable DOT regulations under the provisions of 49 C.F.R. part 172.
(e) Placard or offer the initial transporter the appropriate placards according DOT regulations for hazardous materials under the provision of 49 C.F.R. part 172, subpart F."

25. Based on a letters dated March 22, 1990, from PPG Industries Inc. to U.S EPA, and April 25, 1990, from PPG Industries Inc. to the DNR, the DNR has determined that Ford failed to properly meet the pre-transport requirements in violation of R 299.9305(1)(a)(b)(c) and (e). The letter to U.S. EPA was referred by the U.S. EPA to the DNR on April 4, 1990.

26. R 299.9306(1)(b) and (c) state:

"(1) Except as provided in subrules (4), (5), and (6) of this rule, a generator may accumulate hazardous waste on-site for 90 days or less without an operating license if he or she complies with all of the following requirements:

(b) The date upon which each period of accumulation begins and the hazardous waste number of the waste are clearly marked and visible for inspection on each container.

(c) while being accumulated on-site, each container and tank is labeled with the words 'Hazardous Waste'."

27. Based on a letters dated March 22, 1990, from PPG Industries Inc. to U.S EPA, and April 25, 1990, from PPG Industries Inc. to the DNR, the DNR has determined that Ford failed to properly identify the contents of the container and label the container with the words "Hazardous Waste" in violation of R 299.9306(1)(b) and (c). The letter to U.S. EPA was referred by the U.S. EPA to the DNR on April 4, 1990.

28. R299.9311 states:

"(1) Generators of hazardous waste shall comply with the applicable requirements and restrictions of 40 CFR 268.

(2) The provisions of 40 CFR part 268 are incorporated by reference in R 299.911003. For purposes of this adoption, the word "director" shall replace the word "administrator", except in the provisions of 40 CFR 268.5." R 299.11003(2) states that the federal regulations are contained in 40 CFR parts 190 to 399, July 1, 1987 edition."

29. 40 CFR 268.7(a)(1)states:

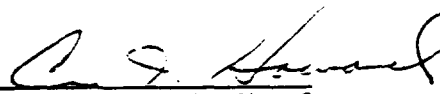
"(a) The generator must test his waste, or an extract developed using the test method described in Appendix I of this part, or

use knowledge of the waste, to determine if the waste is restricted from land disposal under this part.

30. Based on a letters dated March 22, 1990, from PPG Industries Inc. to U.S EPA, and April 25, 1990, from PPG Industries Inc. to the DNR, the DNR has determined that Ford failed to test the waste in the container in violation of R 299.9311 and 40 CFR268.7(a) to see if the waste was restricted from land disposal in violation of R 299.9311 and 40 CFR268.7(a)(1). The letter to U.S. EPA was referred by the U.S. EPA to the DNR on April 4, 1990.

Conclusion

The DNR has sufficient information to believe Ford has violated Act 64 and the rules promulgated thereunder. A person who violates Act 64 or the rules promulgated thereunder is subject to state or federal civil and criminal sanctions. Accordingly, a failure on the part of Ford to timely and adequately respond to the violations cited herein may result in the commencement of administrative or judicial proceedings against the Company.


Alan J. Howard, Chief
Waste Management Division
517-373-2730

Dated: 5/2/91